

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claim 212 has been objected to under 35 U.S.C. § 112, second paragraph, as not being in compliance with U.S. patent practice and procedure; and Claims 1-14, 32, 33, 212-215 and 223 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Danks (USP 5,868,773, hereinafter Danks '773) in view of Danks (USP 5,607,440, hereinafter Danks '440). Claims 1-4, 32, 33, 212-215 and 223 remain active.

Considering first then the Examiner's rejection of Claim 212 under 35 U.S.C. § 112, second paragraph, as being vague and indefinite, it is to be noted that such claim has now been amended for closer compliance with U.S. patent practice and procedure.

Considering next then the rejection of Claims 1-4, 32, 33, 212-215 and 223 under 35 U.S.C. § 103(a) as being unpatentable over Danks '773 in view of Danks '440, it is to be noted that Danks '773 has been cited as teaching a substantially planar blade 81 along with a guard 51 mounted on the slidable member. Danks '440 has been cited as having a cutting blade 81 and a shield 15 which has a smaller edge angle than the cutting blade in plan view as shown in Figs. 7A-9B. Applicants further note that the Examiner has concluded in paragraph 4a that the guard shown in the prior art is substantially planar along side the blade.

In view of the foregoing, it is to be noted that in accordance with the present invention, Applicants' guard as illustrated in Figures 24-27 has upper and lower surfaces that are substantially planar and which are also parallel to the upper and lower surface of the blade. As can be appreciated from these figures, this provides the advantage of permitting forward projection of the guard due to its close proximity and parallel surfaces with the blade to thus penetrate ahead of the blade during penetration of the peritoneum. This also reduces scarring and tearing of the skin of the patient and other portions of the peritoneum.

As compared with the above-noted limitations as now claimed in independent Claims 1 and 212, each of Danks '773 and Danks '440 require the guard 51 so as to be substantially elliptically shaped and sloped so as to have an increasing thickness in a direction away from the tip of the blade as shown by guard 51 in Figures 4C and 5D. Danks '773 clearly has a concave shape and has a slope which increases in thickness in a direction away from the tip of the blade as shown in Figures 7A-9B and Danks '440. Since the guards shown in each of these references serve to lower the ability of the guard to penetrate the aperture of the skin cut by the blade 81, such does not permit projecting forward of the guard ahead of the blade art at the line of penetration of the peritoneum as quickly as the guard in accordance with the present invention. A review of Danks '773 and Danks '440 also contains no teaching or suggestion of a modification of the design of the guard and clearly the upper surfaces of each of such guards are not either substantially parallel or are not parallel to the upper and lower surfaces of the blade as presently claimed.

In view of the foregoing, it is submitted that each of independent Claims 1 and 212 clearly patentably define over Danks '773 and Danks '440 as well as the remaining references of record.

In view of the dependency of Claims 2-4, 32 and 33 upon Claim 1 and the dependency of Claims 213-215 and 223 upon Claim 212, it is submitted that such claims also clearly merit indication of allowability with the same being hereby respectfully requested. Should the Examiner have any questions regarding this application, the Examiner is invited to contact Applicants' attorney. In addition should the Examiner believe that an Examiner's Amendment would be helpful to place the application in condition for allowance, such suggestion would be welcome by Applicants.

In view of the foregoing, an early and favorable Office Action is believed to be in order and the same is hereby respectfully requested.


Respectfully submitted,

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